

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

September 22, 2017

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 02OD-136

OAHU

Rescind Prior Board Actions of February 27, 1970, Item F-8, *Grant of Perpetual Non-exclusive Easement for Pole and Electric Transmission Lines at Makiki, Honolulu, Oahu.*

Grant of Perpetual Non-Exclusive Easement to Hawaiian Electric Company, Inc. for Utility Purposes; Issuance of Management Right-of-Entry, Makiki, Honolulu, Oahu; Tax Map Key: (1) 2-5-019: portions of 009

APPLICANT:

Hawaiian Electric Company, Inc.

LEGAL REFERENCE:

Section 171-13, 17, 55, and 95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Makiki, Honolulu, Oahu; Tax Map Key (1) 2-5-019: portions of 009, as shown on the attached map labeled **Exhibits A1** and **A2**.

AREA:

10-foot wide easement, with a total area of 16,021 square feet, more or less

ZONING:

State Land Use District:	Conservation District
City & County of Honolulu LUO:	P-1

TRUST LAND STATUS:

Section 5 (b) lands of the Hawaiian Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CURRENT USE STATUS:

Honolulu Watershed Forest Reserve pursuant to Governor's Proclamation dated December 24, 1926.

Note: Other portions of the same State parcel, not pertinent to the subject request, are encumbered by Land Office Deed No. 28156 to for garage and walkway easement purposes and Land Office Deed No. 14035 for access easement purposes.

CHARACTER OF USE:

Right, privilege and authority to construct, reconstruct, use, maintain, and repair electrical and communication equipment, utility poles, and wires, and anchors over, under and across State-owned land, including the right to trim and keep trimmed any trees in the way of their appliances and equipment.

COMMENCEMENT DATE:

To be determined by the Chairperson.

CONSIDERATION:

One-time payment to be determined by an independent appraisal, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land." See **Exhibit B**.

DCCA VERIFICATION:

Place of business registration confirmed:	YES <u>x</u>	NO <u> </u>
Registered business name confirmed:	YES <u>x</u>	NO <u> </u>
Applicant in good standing confirmed:	YES <u>x</u>	NO <u> </u>

APPLICANT REQUIREMENTS: Applicant shall be required to:

1. Pay for an appraisal to determine one-time payment; and
2. Process and obtain designation of easement approval from the Department of Planning and Permitting at Applicant's own cost.

Note: Applicant has provided map and legal description for the requested easement.

REMARKS:

The subject overhead 12kV line is currently located over the Honolulu Watershed Forest Reserve, serving residences within the immediate area including the telecommunication sites at Puu Ohia. The power line was installed in 1949 under General Lease No. L-3315 to Hawaiian Electric Company, Inc., (HECO), and expired on November 3, 1970.

On February 27, 1970, under item F-8 (**Exhibit C**), the Board approved of HECO's request for a perpetual non-exclusive easement for the subject easement area. The approved easement request was delayed due to mapping difficulties experienced by HECO for the subject area including a study that the Division of State Parks required for master planning purposes, at approximately the same time period. Presently, the subject utility improvements continue to deliver power service to their customers.

Around 1976, a revocable permit was planned to replace the expired General Lease L-3115. However, for reasons unknown to staff, the revocable permit was never consummated and the easement request was not followed-up.

In 2010, HECO reactivated its request for the subject non-exclusive easement area with the map and the description delineating the six parts of the subject easement (see Exhibit A2).

Initially, Division of Forestry and Wildlife (DOFAW) had concerns about the emergency contact information for HECO, term of the easement, standards and practices for maintaining vegetation, and future expanded use of easement. Also, DOFAW requests the consideration payable for the subject easement be deposited into the Forest Reserve Special Fund. DOFAW's issues will be covered in the standard conditions of the easement or through coordination between parties. In addition, the consideration, after the deduction of the 20% share be given to the Office of Hawaiian Affairs, will be deposited into Forest Reserve Special Fund. Pursuant to subsequent discussions with Land Division staff, DOFAW indicates its concurrence to the request as shown on **Exhibit D**.

The Commission on Water Resource Management, Division of State Parks, Department of Planning and Permitting, Department of Facilities Maintenance, Office of Hawaiian Affairs, Department of Hawaiian Home Lands, Office of Conservation and Coastal Lands, Board of Water Supply, and Department of Health have no comments/objections regarding the subject request. State Historic Preservation Division had not responded as of the date of the subject request.

For housekeeping purposes, staff recommends the Board rescind its prior action of February 27, 1970, item F-8.

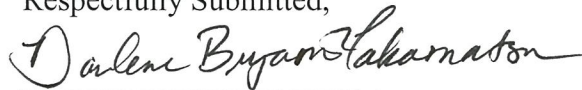
Applicant has not had a lease, permit, easement or other disposition of State lands terminated

within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board:

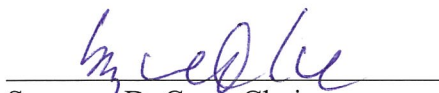
1. Rescind its prior action of February 27, 1970, under agenda item F-8.
2. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore, exempt from the preparation of an environmental assessment.
3. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the issuance of a perpetual non-exclusive easement to Hawaiian Electric Company, Inc. covering the subject area for utility purposes under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current perpetual easement document form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
4. Issuance of a construction and management right-of-entry to Hawaiian Electric Company, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry document form, as may be amended from time to time and
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

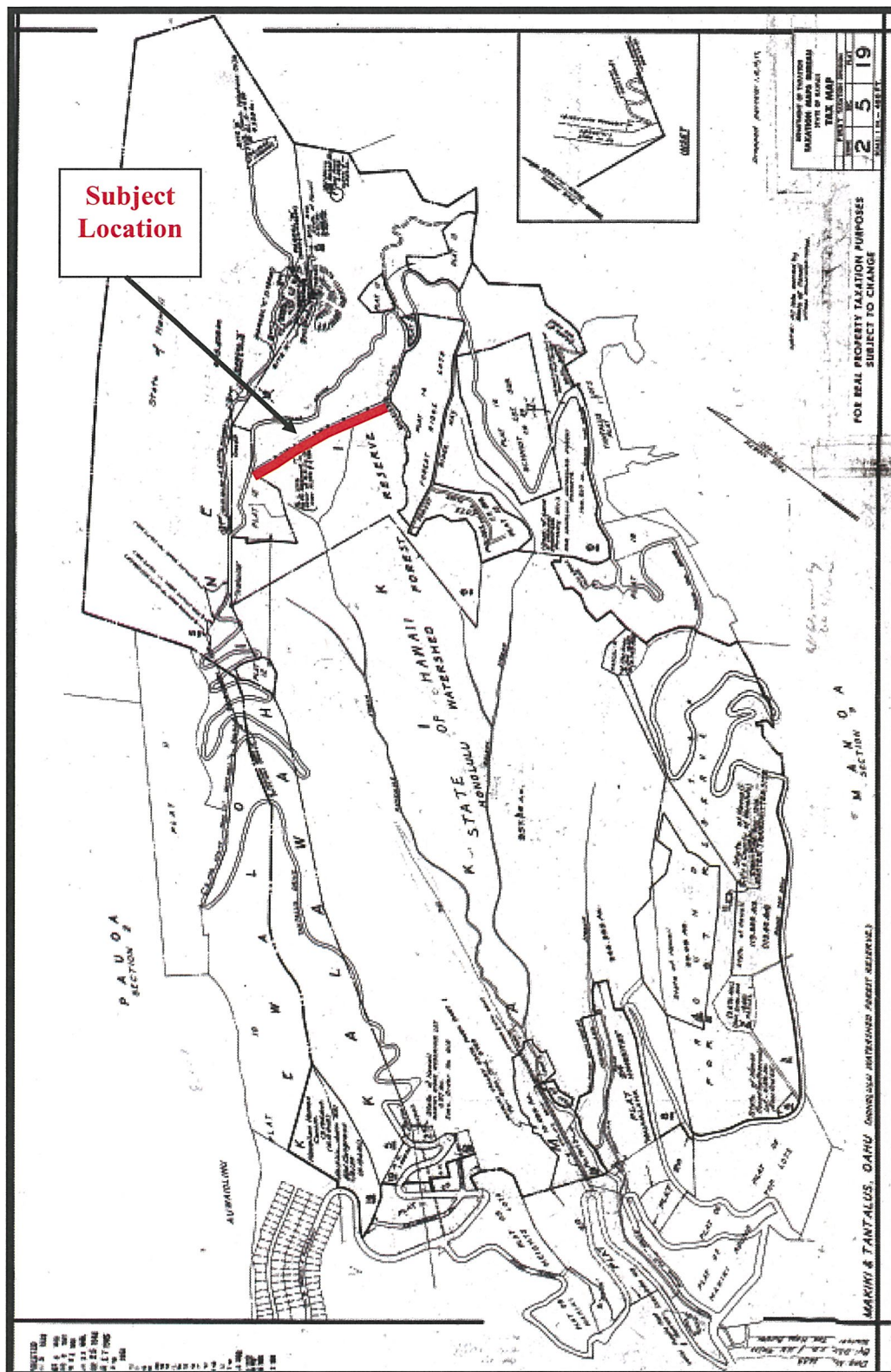
Respectfully Submitted,



Darlene Bryant-Takamatsu, Land Agent

APPROVED FOR SUBMITTAL:

N 
Suzanne D. Case, Chairperson



TMK (1) 2-5-019: portions of 009

EXHIBIT A1

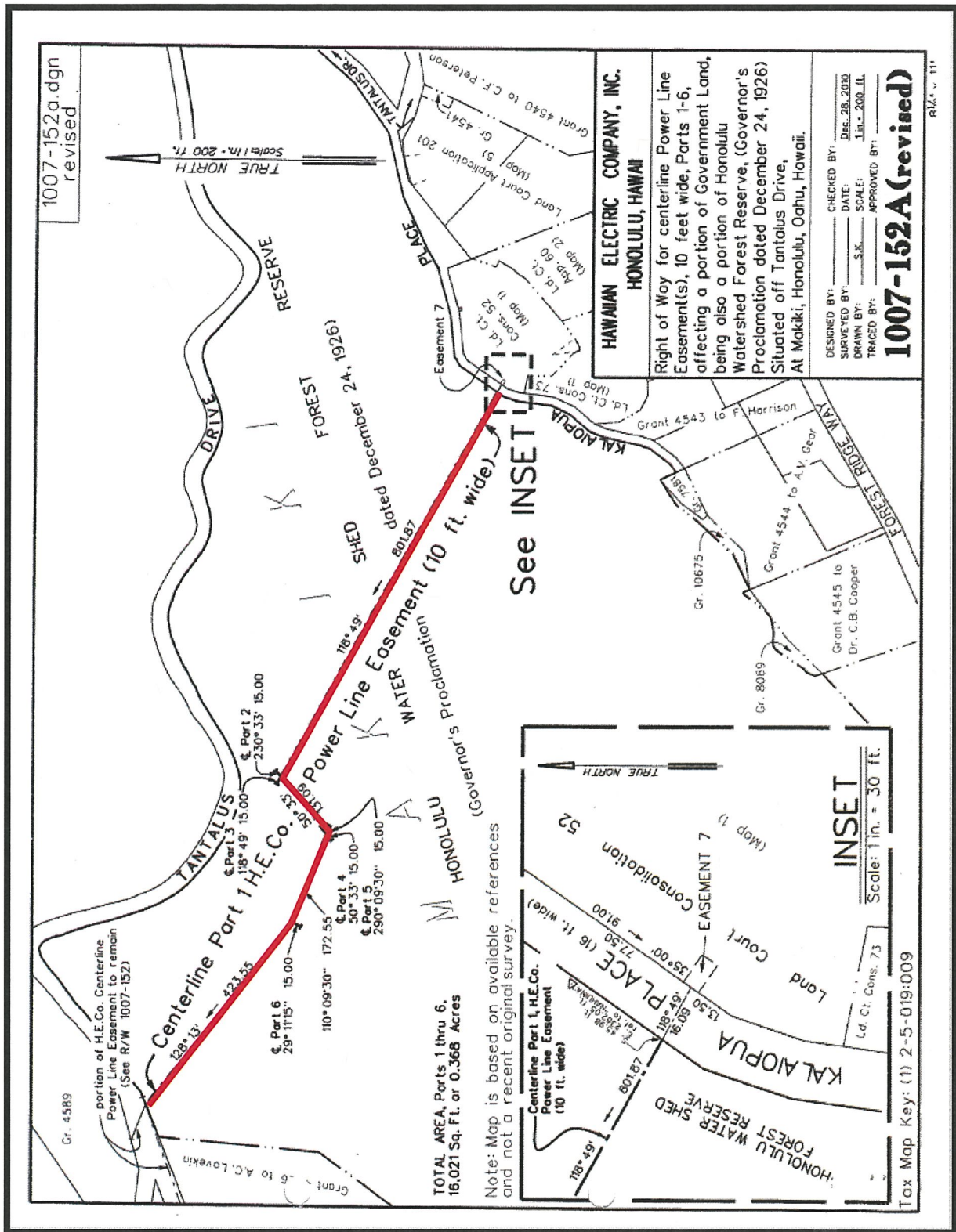


EXHIBIT A2

EXEMPTION NOTIFICATION

Regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR

Project Title: Grant of Perpetual, Non-Exclusive Utility Easement.

Project / Reference No.: PSF 02OD-136

Project Location: Makiki, Honolulu, Oahu, Tax Map Key: (1) 2-5-019: pors. of 009

Project Description: Easement for Utility Purposes

Chap. 343 Trigger(s): Use of State Land

Exemption Class No.: In accordance with the Exemption List for the Department of Land and Natural Resources, concurred and reviewed by the Environmental Council on June 5, 2015, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and item 46, which states, "Creation or termination of easement, covenants, or other rights in structures or land."

The request pertains to the continuance of the easement which was expired. Applicant is not planning for any additional improvements at the moment. Staff believes that the request would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Consulted Parties Agencies noted in the submittal.

Recommendation: That the Board find this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.

EXHIBIT B

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
HONOLULU, HAWAII
Division of Land Management

February 27, 1970

Board of Land and
Natural Resources
Honolulu, Hawaii

Gentlemen:

OAHU

GRANT OF PERPETUAL NON-EXCLUSIVE
EASEMENT FOR POLE AND ELECTRIC TRANSMISSION
LINES AT MAKIKI, HONOLULU, OAHU

STATUTE: Chapter 171, Hawaii Revised Statutes.

APPLICANTS: HAWAIIAN ELECTRIC COMPANY, INC. -- HAWAIIAN
TELEPHONE COMPANY

FOR: Perpetual non-exclusive easement, ten (10)
ft. wide, for pole and electric transmission
line over and across portion of the Honolulu
Watershed Forest Reserve at Makiki, Honolulu,
Oahu, as shown in red on Hawaiian Electric
Company, Inc. map titled "Proposed Relocation
of H.E. Co. Pole and Wire Line Off Tantalus
Road" labeled Land Board Exhibit "A." Tax Map
Key 2-5-19 (Oahu).

STATUS: Honolulu Watershed Forest Reserve (Governor's
Proclamation dated December 24, 1926)

ZONING: State Land Use Commission: Conservation District

PURPOSE: Right, privilege and authority to construct, use,
maintain and repair the pole and electric
transmission line.

AREA: To be determined by Survey Division, Department
of Accounting and General Services.

CONSIDERATION: To be determined by independent appraisal
establishing fair market value, same subject to
review and acceptance by the Chairman.

REMARKS: The above area, which is presently encumbered
under General Lease No. L-3315 to Hawaiian Electric
Co., Inc. for a pole and transmission line right-
of-way will be expiring on November 3, 1970.
Hawaiian Electric advises that the easement will
be required indefinitely and requests that the
Board of Land and Natural Resources sell to them
and Hawaiian Telephone Co. a perpetual non-
exclusive pole and electric transmission line
easement.

ITEM F-8

EXHIBIT "C"

The easement is located within Conservation District designated as the "GU" subzone. The proposed use is permitted under Section 2B(1)(c), Regulation No. 4 (A Regulation of the Department of Land and Natural Resources, State of Hawaii, Providing for Land Use Regulations Within Conservation Districts....). The staff is of the opinion that the proposed use of this area is compatible within the Conservation District and that no serious problems relating to recreation and scenic resources will occur.

RECOMMENDATION: That the Board:

- A. Relative to Conservation District zonation, approve the requested use of the above area subject to Regulation No. 4 (A Regulation of the Department of Land and Natural Resources, State of Hawaii, Providing for Land Use Regulations Within Conservation Districts....).
- B. Authorize the granting of a perpetual non-exclusive easement to Hawaiian Electric Co., Inc. and Hawaiian Telephone Co. together covering the subject premises under the above-listed terms and conditions, which are by reference incorporated herein, in addition to the following:
 1. Disapproval of the Legislature at its next regular or special session.
 2. Standard indemnity and hold-harmless clause.
 3. Standard abandonment and relocation clause.
 4. The co-grantees be allowed to assign the easement to Hawaiian Trust Company as Trustee for the bond holders.
 5. Other standard terms and conditions as contained in the basic grant of easement document and such special terms and conditions as may be prescribed by the Chairman.

Respectfully submitted,



JAMES J. DETOR
Program Administrator
Division of Land Management

RECOMMENDED FOR APPROVAL:



SUNAO KIDO, Chairman

DAVID Y. IGE
GOVERNOR OF HAWAII



SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE
MANAGEMENT

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

August 7, 2017

Ref. No.: 02OD-136

MEMORANDUM

TO: Marigold S. Zoll, Oahu Branch Manager
Division of Forestry and Wildlife

FROM: Barry Cheung, District Land Agent
Land Division

A handwritten signature in black ink, appearing to read "Barry Cheung", is written over the printed name.

SUBJECT: Request for Grant of Perpetual Non-Exclusive Easement for Utility Purposes
LOCATION: Makiki, Honolulu, Oahu; Tax Map Key: (1) 2-5-019: portions of 009
APPLICANT: Hawaiian Electric Company, Inc.

Transmitted for your review and comment is a copy of the draft Land Board submittal for the above referenced request involving State lands. We would appreciate if you could indicate your comments on this application at the space provided below. Please submit any comments by August 21, 2017. If no response is received by this date, we will assume your agency has no comments. If you have any questions about this request, please contact my office at 587-0430. Thank you.

Enclosure

- ☒ We have no objections.
- ☐ We have no comments.
- ☐ Comments are attached.

Signed: A handwritten signature in black ink, appearing to read "Marigold S. Zoll", is written over the printed name.

Date: 8/17/17

RECEIVED
LAND DIVISION
2017 AUG 21 PM 4:09
DEPT. OF LAND & NATURAL RESOURCES
STATE OF HAWAII

EXHIBIT "D"